REMARKS

Amendments to claims 1, 2 and 17

Claims 1, 2 and 17 were amended to place the claims in better form for examination and have not been made for reasons relating to patentability.

Restriction Requirement

In the Restriction Requirement, the Examiner requested Applicants to elect one of the following inventions:

Group I (claims 1, 2 and 16, and 17) drawn to protein and compositions comprising such, classified in Class 514, subclass 2.

Group II (claims 3-9, 11, and 12) drawn to a nucleic acids, transformed cells and expression methods, classified in Class 435, subclass 69.1.

Group III (claim 10) drawn to an antibodies, classified in Class 530, subclass 387.9.

Group IV (claims 13-15 and 21) drawn to nucleic acid hybridization assays, classified in class 435, subclass 6.

Group V (claims 18-19) drawn to assays for agonists or antagonists of the protein, classified in class 435, subclass 7.1.

Group VI (claim 20) drawn to assays for nucleic acid expression inducers/inhibitors, classified in class 435, subclass 7.2.

Applicants hereby elect, with traverse, to prosecute Group I, which includes claims 1, 2, 16, and 17.

Claims 8 and 9, drawn to methods of making the polypeptides of claim 1, and claims 18 and 19, drawn to methods of using the polypeptides of claim 1, could and should be examined together, per the Commissioner's Notice in the Official Gazette of March 26, 1996, entitled "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai, In re Brouwer* and 35 U.S.C. § 103(b)" which sets forth the rules, upon allowance of one of the product claims, for rejoinder of process claims covering the same scope of products.

Applicants further submit that claim 10, drawn to the antibodies of Group III, could be examined along with the claims of Group I without undue burden on the Examiner. A search for prior art to determine the novelty of the polypeptide would substantially overlap with a search of the prior art to determine the novelty of antibodies against the polypeptides.

It is also noted that claims to the polynucleotide sequences of claim Group II, including complementary polynucleotides thereof, hybridization probes and expression vectors comprising those polynucleotides, and host cells containing those expression vectors, have already been examined and allowed in the parent application. Claims 3-9, 11 and 12 in the present case are drawn to substantially the same polynucleotide invention as previously allowed in the parent application but of a different scope from the previously allowed claims. Applicants respectfully submit that claims 3-9, 11 and 12, along with claims 13-15 and 21 (drawn to methods of use of the polynucleotides), should be examined together with the polypeptide claims of Group I, as discussed above in connection with the rejoinder of product and process claims.

Applicants believe that no fee is due with this communication. However, if the USPTO determines that a fee is due, the Commissioner is hereby authorized to charge Deposit Account No. 09-0108.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE SPECIFICATION:

The first paragraph of page 1 has been amended as follows:

This application is a divisional application of U.S. application Serial Number 08/812,824, filed March 6, 1997, issued on March 20, 2001, as U.S. Patent No. 6,204,372, entitled DNA ENCODING A HUMAN TUBBY HOMOLOG, the contents of which are hereby incorporated by reference.

IN THE CLAIMS:

Claims 1, 2 and 17 have been amended as follows:

1. (Once Amended) An isolated polypeptide [comprising an amino acid sequence] selected from the group consisting of:

a) a polypeptide comprising an amino acid sequence of SEQ ID NO:1,

b) a polypeptide comprising a naturally-occurring amino acid sequence [having] at least 90% [sequence identity] identical to the amino acid sequence of SEQ ID NO:1,

c) a biologically-active fragment of a polypeptide having the amino acid sequence of SEQ ID NO:1, and

d) an immunogenic fragment of a polypeptide having the amino acid sequence of SEQ ID NO:1.

2. (Once Amended) An isolated polypeptide of claim 1, [having a] comprising the amino acid sequence of SEQ ID NO:1.

17. (Once Amended) A composition of claim 16, wherein the polypeptide [has the] comprises the amino acid sequence of SEQ ID NO:1.